IN THE HIGH COURT OF KERALA AT ERNAKULAM
PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

WEDNESDAY, THE 14TH NOVEMBER 2007 / 23RD KARTHIKA 1929

Bail Appl..No. 6775 of 2007()

[CRIME NO.240/2007 OF VANDANMEDU POLICE STATION]

: PETITIONERS/ACCUSED NOS.4 TO 11
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1. BIJU, S/O.SCARIA, AGED 26 YEARS,
VADAKKEKKARA HOUSE, CHELLARCOIL KARA,
ANAKKARA VILLAGE, UDUMBANCHOLA, IDUKKI DISTRICT.

2. SONI, S/O.APPACHAN, AGED 27 YEARS,
KAIPPANANICKAL HOUSE, CHELLARCOIL KARA,
DO. DO.

3. BINOY, S/O.PHILIPPOSE, AGED 26 YEARS,
VALIYAMANNIL HOUSE, CHELLARCOIL KARA,
DO. DO.

4. JOSHY, S/O.RAJU, AGED 23 YEARS,
PEEDIKAYIL HOUSE, ANAKKARA KARA, DO. DO.

5. ROY, S/O.DEVASSIA, AGED 27 YEARS,
THAKIDIYEL HOUSE, CHELLARCOIL KARA,
DO. DO.

6. BIJU, S/O.PHILIPOSE, AGED 23 YEARS,
VALIYAMMANNIL HOUSE, CHELLARCOIL KARA,
DO. DO.

7. SATHEESAN, S/O.KUNJUMON,
AGED 25 YEARS, KUNNEL HOUSE, CHELLARCOIL KARA,
DO. DO.

8. MONCY, S/O.MONICHAN,
UDANJAGIRIMEDU, ANAKKARA VILLAGE, DO. DO.

BY ADV. SRI.GRASHIOUS KURIAKOSE

RESPONDENTS: COMPALINANT

STATE-S.H.O. VANDANMEDU,
REP. BY THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 14/11/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

B.A.No.6775 of 2007

Dated this the 14th day of November 2007

O R D E R

Application for anticipatory bail. The petitioners are accused 4 to 11. Altogether there are eleven accused persons. They face allegations in a crime registered for offences punishable inter alia under Section 326 read with 149 I.P.C. The alleged incident took place on 11 p.m on 14/10/2007. About that incident, a case and a counter case have been registered.

2. The crux of the allegations is that in connection with the meeting of a political party, there was a music programme. While the music programme was going on, there were altercations between two groups. One person suffered injuries. He was taken to the hospital. When they were returning, there was a subsequent incident at 11 p.m. It is in respect of that incident that this case and the counter case have been registered. There are three injured persons in this case. One of them had suffered a grievous injury also - loss of tooth. On the other side, five persons have suffered injuries. The counter case is registered for offence punishable inter alia under Sections 323

and 324 I.P.C. The accused in this crime were allegedly members of an unlawful assembly of persons. Some of the members of the unlawful assembly were armed with logs of wood (.....) and it was with such weapon that the injuries were inflicted.

3. The learned counsel for the petitioners submits that the petitioners are absolutely innocent. They are victims of aggression and not aggressors. In any view of the matter, the petitioners do not deserve to endure the trauma of arrest and detention. They may be granted anticipatory bail, submits the learned counsel for the petitioner.

4. The learned Public Prosecutor submits that there are no circumstances justifying or warranting the invocation of the extraordinary equitable discretion in favour of the petitioners. The accused in both crimes must be directed to surrender before the learned Magistrate and seek regular bail in the ordinary course, submits the learned Public Prosecutor.

5. Having considered all the relevant inputs, I find merit in the opposition by the learned Public Prosecutor. I am satisfied that there are no features in this case which would justify

invocation of the extraordinary equitable discretion under Section 438 Cr.P.C. I agree with the learned Public Prosecutor that this is a fit case where the petitioners must appear before the investigating officer or the learned Magistrate having jurisdiction and then seek regular bail in the normal and ordinary course.

6. In the result, this petition is dismissed. Needless to say, if the petitioners surrender before the investigating officer or the learned Magistrate and apply for bail, after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously.

(R.BASANT, JUDGE)

jsr

// True Copy// PA to Judge

R.BASANT, J.

CRL.M.CNo.

ORDER

21ST DAY OF MAY2007